



## STATEMENT OF THE CASE

Michelle R. Brown appeals the sentence imposed after she was convicted of Theft, as a Class D felony, pursuant to a plea agreement. Brown presents a single issue for review: whether her sentence is inappropriate under Indiana Appellate Rule 7(B). We affirm.

## FACTS AND PROCEDURAL HISTORY

In March 2004, Brown and her boyfriend were staying at the home of Harrison Colwell, the boyfriend's friend.<sup>1</sup> Brown's boyfriend was subsequently jailed after a court hearing, and, on March 13, Colwell told Brown that she could no longer stay at the home. Colwell then left the home around one o'clock.

When Colwell returned home after ten o'clock that evening, he found that the doorknob to his front door was damaged and would no longer function, someone had gone through the home, and several items were missing. Colwell reported the break-in and theft to police. The items that were missing included a shop vac, two electric saws, jewelry, a leather trench coat, a leather jacket, a black jacket with a silver Nike swoosh that had never been worn, and two four-foot-tall Kenwood speakers.

Shortly after midnight, police were again summoned to Colwell's residence. Amanda Akers had returned Brown and the missing items to the residence, and Colwell was restraining Brown until police arrived. Akers, an acquaintance of Brown's, had

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<sup>1</sup> In her brief, Brown did not provide these background facts or the nature of the facts underlying her conviction and sentence. We gleaned these facts from the record on appeal. Such facts are necessary to resolve the issue presented on appeal and are required in the Statement of Facts section under Indiana Appellate Rule 46(A)(6). We remind counsel that this court has the authority to dismiss an appeal for flagrant violation of the appellate rules regarding the contents of appellate briefs. See Galvan v. State, 877 N.E.2d 213, 216 (Ind. Ct. App. 2007) (dismissing appeal for wholly inadequate appellant's brief).

agreed to let Brown stay with her for a few days. But when Brown brought trash bags full of stolen items to Akers' home, Akers rescinded the invitation and drove Brown and the trash bags back to Colwell's.

The State charged Brown with burglary, as a Class B felony, and theft, as a Class D felony. Brown later entered into a plea agreement under which she agreed to plead guilty to theft, as a Class D felony; the State agreed to dismiss the burglary charge; and sentencing was to be left to the trial court's discretion. The trial court sentenced Brown to two and one-half years executed in the Indiana Department of Correction, to be served consecutive to sentences imposed in other cases. Brown now appeals.

### **DISCUSSION AND DECISION**

Brown contends that the trial court placed "great emphasis on [her] having been arrested on twenty-five prior occasions resulting in only eight (8) actual convictions" and that that emphasis "interfered with the trial court's consideration of [her] character . . . to such an extent that the 2 ½[-]year sentence for theft is inappropriate." Appellant's Brief at 4. In her brief, Brown asserts that she is "not arguing that the trial court's emphasis on prior arrests renders it's [sic] sentence reviewable on appeal for abuse of discretion. Nor is [she] asserting that the reasons given by the trial court for the sentence are reviewable for abuse of discretion." Appellant's Brief at 6. Instead, she "ask[s] this court to review the merits of the sentence under the grounds outlined in [Indiana] Appellate Rule 7(B)." Id.

The thrust of Brown's Rule 7(B) argument focuses only on her character. But revision of a sentence under Indiana Appellate Rule 7(B) requires the appellant to

demonstrate that her sentence is inappropriate in light of both the nature of her offenses and her character. See Ind. Appellate Rule 7(B); Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). Brown acknowledges that she has the “burden of persuading this court that her sentence has met the inappropriateness standard of review[,]” but she presents no factual background or cogent argument regarding the inappropriateness of her sentence in light of the nature of the offenses. See Ind. App. R. 46(A)(8)(a); Ford v. State, 718 N.E.2d 1104, 1107 n.1 (Ind. 1999) (holding that the defendant’s “argument with respect to review and revise provision of the constitution is waived for failure to state a cogent argument.”). As a result, Brown has waived review of her sentence under Rule 7(B).

Waiver notwithstanding, we review Brown’s claim with regard to her character and find her argument to be without merit. Brown contends that the trial court focused too much on her number of arrests without considering the circumstances behind those arrests or why certain charges were dismissed. She also argues that the trial court’s consideration of dismissed charges was “unfair.” Appellant’s Brief at 5. But Brown’s arguments in this regard go to whether the trial court abused its discretion in identifying or weighing aggravating and mitigating circumstances, not to the inappropriateness of her sentence under Rule 7(B).

Without explaining the circumstances behind those arrests and the dismissal of charges, Brown has not provided us with a picture of her character to persuade us that her sentence is inappropriate. Similarly, Brown’s complaints that she is not receiving in the prison system the substance abuse treatment she needs to be successful upon release

neither describe her character to any degree nor persuade us that her sentence is inappropriate in light of her character. Thus, Brown has not met her burden of showing that her sentence is inappropriate in light of her character.

Affirmed.

ROBB, J., and MAY, J., concur.